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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA—SOUTHERN DIVISION

Oculu, LLC,
Plaintiffs,
v.
Oculus VR, Inc.,
Defendant.

No. 8:14-SACV-196-DOC (JPRx)

PROTECTIVE ORDER

Judge: Hon. David O. Carter

Magistrate: Hon. Jean P. Rosenbluth

And Related Counterclaim

PURPOSES, GOOD CAUSE STATEMENT AND LIMITATIONS.

1. The parties recognize that some of the information, documents and other things (described below) being sought through discovery in this action are, for competitive reasons, normally kept confidential by the parties. The parties have agreed to be bound by the terms of this Protective Order (“Order”) in this action.

1 2. The materials to be exchanged throughout the course of the litigation
2 between the parties may contain trade secret or other confidential research, technical,
3 cost, price, marketing, or other commercial information, as is contemplated by
4 FED. R. CIV. P. 26(c)(7).

5 3. Specifically, the Parties may exchange documents relating to:

- 6 a. Financial records
- 7 b. Sales information
- 8 c. Strategic planning information
- 9 d. Customer information
- 10 e. Strategic advertising information
- 11 f. Social media strategy information
- 12 g. Distributor information
- 13 h. Marketing planning information
- 14 i. Information related to security offerings
- 15 j. Information relating to new, unannounced products

16 4. The purpose of this Order is to protect the confidentiality of such materials
17 as much as practically possible during the litigation.

18 5. The parties further acknowledge that this stipulation and any protective
19 order create no entitlement to file confidential information under seal. Instead, Judge
20 Rosenbluth's practices and schedules, available on the Court's website, as well as
21 Local Rule 79-5.1, set forth the procedures that must be followed when a party seeks
22 permission from the court to file material under seal.

23 Given the foregoing, the parties **STIPULATE** as follows:

24 **DEFINITIONS**

25 6. The term "Confidential Information" means and includes information
26 disclosed or to be disclosed during this litigation including, without limitation,
27 information contained in any Materials and information provided in documents,
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1 portions of documents, answers to interrogatories, responses to requests for
 2 admissions, deposition testimony, and transcripts of depositions; including data,
 3 summaries, compilations, copies, abstracts, and any other format reproducing or
 4 capturing such information or otherwise derived from such information that meets the
 5 designation requirements of “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL
 6 ONLY” as set out in paragraph 19, below.

7 7. The term “Materials” includes, but is not limited to: documents;
 8 correspondence; e-mails; instant messages; text messages; memoranda; bulletins;
 9 blueprints; specifications; customer lists or other matter that identify customers or
 10 potential customers; price lists or schedules or other matter identifying pricing;
 11 minutes; letters; statements; cancelled checks; contracts; invoices; drafts; books of
 12 account; worksheets; notes of conversations; desk diaries; appointment books;
 13 expense accounts; audio and recordings, including voice mail; photographs;
 14 compilations from which information can be obtained and translated into reasonably
 15 usable form through detection devices; sketches; drawings; notes (including
 16 laboratory notebooks and records); reports; instructions; disclosures; other writings;
 17 models and prototypes; and other physical objects.

18 8. The term “Counsel” means in-house counsel of the parties and outside
 19 Counsel of Record, as defined below, and shall also include other attorneys,
 20 paralegals, secretaries, and other support staff employed by the law firms identified
 21 below:

22 The Taillieu Law Firm LLP

23 SoCal IP Law Group LLP

Pillsbury Winthrop Shaw Pittman LLP

24 If new outside counsel represent either party, the current parties will modify this
 25 paragraph to include the new counsel.

26 9. The term “Counsel of Record” will mean (i) outside counsel who appear
 27 in the action in any capacity, whether on the pleadings, on the record in a deposition
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1 or in a hearing, or in any other circumstance associated with the action, as counsel for
2 a party so long as such counsel is identified to the other party, (ii) partners, principals,
3 counsel, associates, employees, and contract attorneys of such outside counsel to
4 whom it is reasonably necessary to disclose the Confidential Information for this
5 action, including supporting personnel employed by the attorneys, such as paralegals,
6 legal secretaries, and legal clerks, or (iii) independent shorthand reporters retained to
7 record and transcribe testimony in this case and videographers retained to film
8 testimony in this action.

9 10. The term “Designating Party” shall mean a Party or Non-Party that
10 designates information or items that it produces in disclosures or in responses to
11 discovery as “Confidential Information,” as defined herein.

12 11. The term “Disclosure” or “Discovery Material” shall mean all items or
13 information, regardless of the medium or manner in which it is generated, stored, or
14 maintained (including, among other things, testimony, transcripts, and tangible
15 things), that are produced or generated in disclosures or responses to discovery in this
16 matter.

17 12. The term “Non-Party” shall mean any natural person, partnership,
18 corporation, association, or other legal entity not named as a Party to this action.

19 13. The term “Party” shall mean any party to this action, including all of its
20 officers, directors, employees, consultants, retained experts, in-house counsel, and
21 Counsel of Record.

22 14. The term “Producing Party” shall mean a Party or Non-Party that
23 produces Disclosure or Discovery Material in this action.

24 15. The term “Professional Vendors” shall mean persons or entities that
25 provide litigation support services (e.g. photocopying, videotaping, translating,
26 preparing exhibits or demonstrations, and organizing, storing, or retrieving data in
27 any form or medium) and their employees and subcontractors.
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1 16. The term “Receiving Party” shall mean a Party that receives Disclosure or
2 Discovery Material from a Producing Party.

3 17. The term “Independent Expert” means a person with specialized
4 knowledge or experience in a matter pertinent to the case who has been retained by a
5 Counsel of Record to serve as an expert witness or as a litigation consultant in this
6 case, and who is not a current employee of a Party or of a competitor of a Party and
7 who, at the time of retention, is not anticipated to become an employee of, or a non-
8 litigation consultant of a Party or competitor of a Party.

9 **DURATION**

10 18. Even after final disposition of this litigation, the confidentiality
11 obligations imposed by this Order shall remain in effect until a Designating Party
12 agrees otherwise in writing or a court order otherwise directs. Final disposition shall
13 be deemed to be the later of (1) dismissal of all claims and defenses in this action,
14 with or without prejudice; and (2) final judgment herein after the completion and
15 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
16 including the time limits for filing any motions or applications for extension of time
17 pursuant to applicable law.

18 **GENERAL RULES**

19 19. Each Party to this litigation that produces or discloses any Confidential
20 Information or Materials, or any other information or Materials that the Producing
21 Party believes should be subject to this Order, may designate the same as
22 “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY.”

23 (a) Designation as “CONFIDENTIAL:” Any Party may use the “CONFIDENTIAL”
24 designation only if, in the good faith belief of such Party and its Counsel,
25 the unrestricted disclosure of such information or Materials could be
26 potentially prejudicial to the business or operations of such Party. The
27 following categories of documents may be designated as “CONFIDENTIAL”:
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1. Business agreements and contracts
2. Licensing negotiations and agreements
3. Communications with customers
4. Communications with suppliers, wholesalers, or retailers
5. Marketing plans or strategies
6. Third-party information covered by an obligation of confidentiality
7. Documentation for unrelated present or future projects, the designation will be left to the discretion of the Producing Party.
8. Any Party may use the “CONFIDENTIAL” designation only if, in the good faith and belief of such Party and its Counsel, the unrestricted disclosure of such information or Materials could be potentially prejudicial to the business or operations of such Party, or if the information otherwise qualifies for protection under Fed. R. Civ. P. Rule 26(c).
9. Nothing, however, in any portion of this Protective Order should be considered an admission by either Party that they will not contest the designation of the documents by the other Party, whether as “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”. Nor does either Party waive its right to object to the disclosure of any documentation or materials on any other ground, as allowed by the Rules. To the extent either Party objects to the designation of a particular document as “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”, the Parties agree to meet and confer as that term is defined in the local rules of the United States District Court for the Central District of California before seeking the Court’s intervention for a resolution of the issue.

1 (b) Designation as “CONFIDENTIAL – OUTSIDE COUNSEL ONLY:” Any Party
2 may use the “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” designation only
3 if; in the good faith belief of such Party and its Counsel, believe such
4 information or Materials is among that considered to be most sensitive by
5 the Party, including but not limited to trade secret or other confidential
6 research, development, non-public financial data, product design and
7 development, future marketing or business plans, non-public customer
8 lists, or other highly sensitive commercial or business information or
9 Materials.

10 20. If the Producing Party elects to produce Materials for initial inspection, no
11 marking need be made by the Producing Party in advance of the initial inspection.
12 For purposes of the initial inspection, all Materials produced will be considered as
13 “CONFIDENTIAL - OUTSIDE COUNSEL ONLY,” and must be treated as such pursuant to
14 the terms of this Order. Thereafter, upon selection of specified Materials for copying
15 by the inspecting Party, the Producing Party must, within a reasonable time prior to
16 producing those Materials to the inspecting Party, mark the copies of those Materials
17 that contain Confidential Information with the appropriate “CONFIDENTIAL” or
18 “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” designation.

19 21. Whenever a deposition taken on behalf of any Party involves a disclosure
20 of Confidential Information of any Party:

21 (a) The deposition or portions of the deposition must be designated as
22 containing Confidential Information subject to the provisions of this Order;
23 such designation must be made on the record whenever possible, but a Party
24 may designate portions of depositions as containing Confidential Information
25 after transcription of the proceedings; a Party will have until fourteen days after
26 receipt of the deposition transcript to inform the other Party or Parties to the
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1 action of the portions of the transcript to be designated “CONFIDENTIAL” or
2 “CONFIDENTIAL – OUTSIDE COUNSEL ONLY;”

3 (b) The disclosing Party will have the right to exclude from attendance at
4 the deposition, only during such time as “CONFIDENTIAL” or “CONFIDENTIAL –
5 OUTSIDE COUNSEL ONLY” designated Confidential Information is to be
6 disclosed, any person, other than the deponent and other than those individuals
7 permitted access under this Order, the court reporter, and the person(s) agreed
8 upon pursuant to paragraph 25 below; and

9 (c) The originals of the deposition transcripts and all copies of the
10 deposition must bear the legend “CONFIDENTIAL” or “CONFIDENTIAL –
11 OUTSIDE COUNSEL ONLY” as appropriate, and the original or any copy
12 ultimately presented to a court for filing must not be filed unless it can be
13 accomplished under seal, identified as being subject to this Order, and
14 protected from being opened except by order of this Court.

15 22. All Confidential Information designated as “CONFIDENTIAL” or
16 “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” must not be disclosed by the Receiving
17 Party to anyone other than those persons permitted access within this Order and must
18 be handled in the manner set forth below and, in any event, must not be used for any
19 purpose other than in connection with this litigation, unless and until such designation
20 is removed either by agreement of the Parties, or by order of the Court.

21 23. All Confidential Information designated “CONFIDENTIAL – OUTSIDE
22 COUNSEL ONLY” may be viewed only by Counsel of Record of the Receiving Party,
23 and by Independent Experts in accordance with the following protocol.

24 a. If the Independent Expert works or consults with, or intends to work
25 or consult with, or provides advice to or intends to provide advice to
26 entities that compete with Oculus VR in the field of virtual reality
27 products and services, or with Oculus in the field of online video
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1 advertising, the right of such Independent Expert to receive any
2 information designated “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”
3 will be subject to the advance approval of such expert by the
4 Producing Party or as approved by the Court, and the Party seeking
5 approval of such an Independent Expert must provide written notice
6 to Counsel for the Producing Party, which notice will include: (i) the
7 individual’s name and business title; (ii) business address and country
8 of residence; (iii) business or profession; (iv) the individual’s
9 curriculum vitae; (v) any previous or current relationship (personal or
10 professional) with any of the Parties; (vi) a list of other cases in
11 which the individual has testified (at trial or deposition) within the
12 last six years; (vii) a list of all companies with which the individual
13 has consulted or by which the individual has been employed within
14 the last four years; (viii) a list of any issued patents and patent
15 applications to which the individual contributed (including as an
16 inventor or filer); and (ix) the time period(s) and brief description and
17 subject matter of each consultancy or employment. Any objection by
18 the Producing Party to an Independent Expert receiving Confidential
19 Information must be made in writing within fourteen days following
20 receipt of the identification of the proposed Independent Expert.
21 Confidential Information may be disclosed to an Independent Expert
22 if the fourteen day period has passed and no objection has been made.
23 The approval of Independent Experts must not be unreasonably
24 withheld. The foregoing notification procedure shall not apply to any
25 Independent Expert who does not work or consult with, or intend to
26 work or consult with, or provide advice to or intend to provide advice
27 to entities that compete with Oculus VR in the field of virtual reality
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1 products and services, or with Oculu in the field of online video
2 advertising.

- 3 b. Prior to reviewing any Confidential Information designated
4 “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY”, any
5 Independent Expert shall sign a copy of the form attached as Exhibit
6 A, in advance of providing any Confidential Information of the
7 Producing Party to the Independent Expert. Such signed form shall
8 be retained by the Outside Counsel retaining the Independent Expert
9 and shall be made available to the opposing Party upon the disclosure
10 of said Independent Expert pursuant to Fed. R. Civ. P. 26(a)(2)(D).

11 24. All Confidential Information designated “CONFIDENTIAL” may be viewed
12 only by Counsel of the Receiving Party, by Independent Experts, and by the
13 additional individuals listed below, provided each such individual has read this Order
14 in advance of disclosure and has agreed in writing to be bound by its terms:

15 (a) Executives who are required to participate in policy decisions with
16 reference to this action;

17 (b) Technical personnel of the Parties with whom Counsel for the Parties
18 find it necessary to consult, in the discretion of such Counsel, in preparation for
19 trial of this action; and

20 (c) Stenographic and clerical employees associated with the individuals
21 identified above.

22 25. In addition to the individuals referenced in paragraphs 23 and 24 above,
23 all Confidential Information designated “CONFIDENTIAL” or “CONFIDENTIAL –
24 OUTSIDE COUNSEL ONLY” may also be viewable by independent legal translators
25 retained to translate in connection with this action; independent copying, scanning,
26 technical support and electronic document processing services retained by Counsel in
27 connection with this action; graphics, translation, or design services retained by
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1 Counsel for purposes of preparing demonstrative or other exhibits for deposition,
2 trial, or otherwise in connection with this action; non-technical jury or trial consulting
3 services retained by Counsel in connection with this action, provided, however, that
4 any such individual has read this Order in advance of disclosure, and has executed a
5 copy of the form attached as Exhibit A in advance of access.

6 26. With respect to all Confidential Information designated “CONFIDENTIAL,”
7 or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY,” any person indicated on the face of
8 the document to be its originator, author or a recipient of a copy of the document,
9 may be shown the same.

10 27. All Confidential Information that has been designated as “CONFIDENTIAL”
11 or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” by the producing or disclosing Party,
12 and any and all reproductions of that information or Material, must be retained in the
13 custody of the Counsel of Record for the Receiving Party, except that Independent
14 Experts authorized to view such information under the terms of this Order may retain
15 custody of copies such as are necessary for their participation in this litigation.

16 28. Before any Materials such as those produced in discovery, answers to
17 interrogatories, responses to requests for admissions, deposition transcripts, or other
18 documents that are designated as “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE
19 COUNSEL ONLY,” are filed with the Court for any purpose, the Party seeking to file
20 such Material must seek permission of the Court to file the Material under seal. Any
21 request to file such Material under seal must comply with Local Civil Rule 5.

22 29. At any stage of these proceedings, any Party may object to the
23 “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” designation of any
24 Confidential Information. The Party objecting to any such designation must notify, in
25 writing, Counsel for the Designating Party of the objected to designation of such
26 Confidential Information and the grounds for the objection. If the dispute is not
27 resolved consensually between the Parties within seven days of receipt of such a
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1 notice of objections, the objecting Party may move the Court for a ruling on the
2 objection pursuant to the terms of Local Rule 37. The Confidential Information at
3 issue must be treated according to the designation of the Designating Party, until the
4 Court has ruled on the objection or the matter has been otherwise resolved.

5 30. All Confidential Information must be held in confidence by those
6 authorized by this Order to inspect or receive it, and must be used only for purposes
7 of this action. Counsel for each Party, and each person receiving Confidential
8 Information must take reasonable precautions to prevent the unauthorized or
9 inadvertent disclosure of such Confidential Information. If Confidential Information
10 is disclosed to any person other than a person authorized by this Order, the Party
11 responsible for the unauthorized disclosure must immediately bring all pertinent facts
12 relating to the unauthorized disclosure to the attention of the other Parties and,
13 without prejudice to any rights and remedies of the other Parties, make every effort to
14 prevent further disclosure by the Party and by the person(s) receiving the
15 unauthorized disclosure.

16 31. No Party shall be responsible to another Party for disclosure of
17 Confidential Information under this Order if the information in question is not labeled
18 or otherwise identified as such in accordance with this Order.

19 32. If a Producing Party, through inadvertence, produces any Confidential
20 Information without labeling or marking or otherwise designating it as such in
21 accordance with this Order, the Producing Party may give written notice to the
22 Receiving Party that the document or thing produced is deemed Confidential
23 Information, and that the document or thing produced should be treated as such in
24 accordance with that designation under this Order. The Receiving Party must treat
25 the materials as Confidential Information, once the Producing Party so notifies the
26 Receiving Party. If the Receiving Party has disclosed the materials before receiving
27 the designation, the Receiving Party must notify the Producing Party in writing of
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1 each such disclosure. Counsel for the Parties shall agree on a mutually acceptable
2 manner of labeling or marking the inadvertently produced materials as
3 “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY” subject to this
4 Order.

5 **PRODUCTION OF PRIVILEGED OR PROTECTED DOCUMENTS.**

6 33. Inadvertent production or other disclosure of documents subject to work-
7 product immunity, the attorney-client privilege or other legal privilege that protects
8 information from discovery shall not constitute a waiver of the immunity, privilege,
9 or other protection, provided that the Producing Party notifies the Party receiving the
10 information (“Receiving Party”) in writing reasonably promptly after it confirms such
11 inadvertent production.

12 34. Copies of such inadvertently produced privileged and/or protected
13 document(s) shall be returned to the Producing Party or destroyed immediately upon
14 notice of privilege and any information regarding the content of the document(s) shall
15 be deleted from any litigation support or other database and is forbidden from
16 disclosure and forbidden from use in this action or for any other reason at all. The
17 Party or individual having received the inadvertently-produced privileged or
18 protected information shall notify the Producing Party in writing when all such copies
19 have been returned, destroyed or deleted. Any Party or individual having received
20 the inadvertently-produced privileged or protected information need not wait for
21 notice from the Producing Party before complying with the above and is expected to
22 comply with the requirements of this paragraph as soon as it is known or should be
23 known, that the document and information contained therein is privileged and/or
24 protected. No use shall be made of such inadvertently-produced privileged or
25 protected information during deposition or at trial or otherwise, nor shall the
26 information be shown to anyone who was not given access to them prior to the
27 request to return or destroy them.
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1 35. The Parties shall have the benefit of all limitations on waiver afforded by
 2 Federal Rules of Evidence 502. In addition, the Parties agree that the disclosure
 3 (whether intentional or non-intentional) of documents that are found by the Court,
 4 after such disclosure, to be subject to work-product immunity, the attorney-client
 5 privilege or other legal privilege that protects information from discovery (“Court-
 6 Ordered Protected Documents”) shall not constitute a waiver of any such privilege or
 7 protection with respect to any non-disclosed documents of the same subject
 8 matter. Any inadvertent or non-intentional disclosure of privileged or protected
 9 information shall not operate as a waiver in any other federal, state or administrative
 10 proceeding, and the Parties’ agreement regarding the effect of inadvertent or non-
 11 intentional disclosure of privileged or protected information shall be binding on non-
 12 parties only to the extent that they have read, acknowledged, and agreed to be bound
 13 by the terms of this Order. Any disclosure of Court-Ordered Protected Documents as
 14 provided herein shall not operate as a waiver with respect to any non-disclosed
 15 documents of the same subject matter in any other federal, state or administrative
 16 proceeding.

17 36. The Court shall determine at the time of trial how Confidential
 18 Information shall be handled at trial, consistent with the purposes of this Order.

19 **CONFIDENTIAL INFORMATION SUBPOENAED OR ORDERED**
 20 **PRODUCED IN OTHER LITIGATION**

21 37. Nothing herein shall be construed to prevent disclosure of Confidential
 22 Information if such disclosure is required by law or by order of the Court.

23 38. If a Party or Counsel is served a subpoena or a court order issued in other
 24 litigation that compels disclosure of any information or items designated in this action
 25 as CONFIDENTIAL, that Party or Counsel must:

- 26 a. Promptly notify in writing the Designating Party. Such
 27 notification shall include a copy of the subpoena or court order;
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- 1 b. Promptly notify in writing the party who caused the subpoena or
2 order to issue in the other litigation that some or all of the material
3 covered by the subpoena or order is subject to this Order. Such
4 notification shall include a copy of this Order; and
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6 c. Cooperate with respect to all reasonable procedures sought to be
7 pursued by the Designating Party whose Confidential Information
8 may be affected to protect the Confidential Information from
9 disclosure.

10 39. If the Designating Party timely seeks a protective order, the Party or
11 Counsel served with the subpoena or court order shall not produce any information
12 designated in this action as Confidential Information before a determination by the
13 court from which the subpoena or order issued or the court where compliance is
14 required, unless the Party or Counsel has obtained the Designating Party's
15 permission. The Designating Party shall bear the burden and expense of seeking
16 protection in that court of its Confidential Information – and nothing in these
17 provisions should be construed as authorizing or encouraging a Receiving Party in
18 this action to disobey a lawful directive from another court.

19 40. No Party or Counsel who has received Confidential Information subject to
20 this Order shall aid or encourage a party to other litigation to subpoena or otherwise
21 seek to obtain Confidential Information subject to this Order.

22 **FILING CONFIDENTIAL INFORMATION.**

23 41. Without written permission from the Designating Party or a court order
24 secured after appropriate notice to all interested persons, a Party may not file in the
25 public record in this action any Confidential Information. A Party that seeks to file
26 under seal any Confidential Information must comply with Judge Rosenbluth's
27 practices and schedules, available on the Court's website, and Local Rule 79-5.1. If
28 confidential material is included in any papers to be filed in Court, such papers shall

1 be accompanied by an application to file the papers – or the confidential portion
2 thereof – under seal; the application must show good cause for the under seal filing.
3 Further, the application shall be directed to the judge to whom the papers are directed.
4 Pending the ruling on the application, the papers or portions thereof subject to the
5 sealing application shall be lodged for filing under seal.

6 **MISCELLANEOUS PROVISIONS**

7 42. No Party will be responsible to another Party for disclosure of
8 Confidential Information under this Order if the Confidential Information in question
9 is not labeled or otherwise designated in accordance with this Order.

10 43. If a Party, through inadvertence, produces any Confidential Information
11 without labeling or marking or otherwise designating it as such in accordance with
12 this Order, the Designating Party may give written notice to the Receiving Party that
13 the document or thing produced is to be designated, as appropriate, “CONFIDENTIAL”
14 or “CONFIDENTIAL – OUTSIDE COUNSEL ONLY,” and that the document or thing
15 produced should be treated as such in accordance with that designation under this
16 Order. The Receiving Party must treat such designated Confidential Information in
17 accordance with this Order, once the Designating Party so notifies the Receiving
18 Party. If the Receiving Party has disclosed such Confidential Information before
19 receiving the designation; the Receiving Party must notify the Designating Party in
20 writing of each such disclosure, and the Receiving Party will make every effort to
21 prevent further disclosure by the Party and by the person(s) receiving such
22 inadvertently produced Confidential Information. Counsel for the Parties will agree
23 on a mutually acceptable manner of labeling or marking the inadvertently produced
24 Confidential Information as “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSEL
25 ONLY.”

1 44. Nothing within this Order will prejudice the right of any Party to object to
2 the production of any discovery on the grounds that such Confidential Information is
3 protected as privileged or as attorney work product.

4 45. Nothing in this Order will bar Counsel from rendering advice to their
5 clients with respect to this litigation and, in the course of this litigation, relying upon
6 any Confidential Information designated as "CONFIDENTIAL" or "CONFIDENTIAL –
7 OUTSIDE COUNSEL ONLY," provided that the contents of the Confidential Information
8 must not be disclosed to those not authorized by this Order.

9 46. This Order will be without prejudice to the right of any Party to oppose
10 production of any Confidential Information for lack of relevance or any other ground
11 other than the mere presence of Confidential Information. The existence of this
12 Order must not be used by either Party as a basis for discovery that is otherwise
13 improper under the Federal Rules of Civil Procedure.

14 47. Nothing within this Order will be construed to prevent disclosure of
15 Confidential Information if such disclosure is required by law or by order of the
16 Court.

17 48. Nothing in this Order will be construed to conflict with laws regulating the
18 exportation of certain types of information, Materials, or devices outside of the
19 United States.

20 49. The restrictions and obligations set forth within this Order will not apply
21 to any Confidential Information that: (a) the Parties mutually agree should not be
22 subject to this Order; (b) the Parties mutually agree, or the Court rules, is already
23 public knowledge; (c) the Parties mutually agree, or the Court rules, has become
24 public knowledge other than as a result of disclosure by the Receiving Party, its
25 employees, or its agents in violation of this Order; or (d) has come or will come into
26 the Receiving Party's legitimate knowledge independently of the production by the
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1 Designating Party. Prior knowledge must be established by pre-production
2 documentation.

3 50. The restrictions and obligations within this Order will not be deemed to
4 prohibit discussions of any Confidential Information with anyone if that person
5 already has or obtains legitimate possession of that information.

6 51. Transmission by fax or email is acceptable for all notification purposes
7 within this Order.

8 52. This Order may be modified by written agreement of the Parties, subject
9 to approval by the Court.

10 53. The Court may modify the terms and conditions of this Order for good
11 cause, or in the interest of justice, or on its own order at any time in these
12 proceedings. The Parties prefer that the Court provide them with notice of the Court's
13 intent to modify the Order and the content of those modifications, prior to entry of
14 such an order.

15 54. Even after the termination of this action, the confidentiality and other
16 obligations imposed by this Order will remain in effect until the Producing Party
17 agrees otherwise in writing or the Court otherwise directs. Any Final Disposition of
18 this action as to any or all Parties will include a specific provision that the Court will
19 retain jurisdiction to enforce the terms of this Order for a period of two years
20 following such Final Disposition unless otherwise ordered by the Court. The Parties,
21 Counsel, and any individual who receives any Confidential Information authorized by
22 this Order consents to the personal jurisdiction of the Court for that purpose.

23 **FINAL DISPOSITION**

24 55. Unless otherwise agreed by the Parties in writing, within 60 days after the
25 Final Disposition of this action, as defined below, each Receiving Party authorized by
26 this Order must return all Confidential Information to the Producing Party or destroy
27 such Confidential Information. Whether, the Confidential Information is returned or
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1 destroyed, Counsel for the Receiving Party must submit a written certification to
2 Counsel for the Producing Party (and, if not the same person or entity, to the
3 Designating Party) by the 60-day deadline that (a) identifies (by category, where
4 appropriate) all the Confidential Information that was returned or destroyed and (b)
5 affirms that the Receiving Party has not retained any of the Confidential Information.
6 Notwithstanding this provision, and unless otherwise agreed by the Parties in writing,
7 Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial,
8 deposition, and hearing transcripts, legal memoranda, correspondence, deposition and
9 trial exhibits, expert reports, attorney work product, and consultant and expert work
10 product, even if such Materials contain Confidential Information. Any such archival
11 copies that contain or constitute Confidential Information remain subject to this
12 Order. Even after Final Disposition of this litigation, the confidentiality obligations
13 imposed by this Order will remain in effect until a Designating Party agrees
14 otherwise in writing or a Court otherwise directs. "Final Disposition" means the later
15 of (a) dismissal of all claims and defenses in this action, with or without prejudice
16 and (b) final judgment in this action after the completion and exhaustion of all
17 appeals, rehearings, remands, trials, or reviews of this action, including the time
18 limits for filing any motions or applications for extension of time pursuant to
19 applicable law.
20

21 November 17, 2014

22 By: /s/ Bobby Ghajar
23 Bobby Ghajar
24 Kelly W. Craven
25 Marcus D. Peterson
26 PILLSBURY WINTHROP SHAW
27 PITTMAN LLP
28

Attorneys for Defendant and
Counterclaimant Oculus VR, Inc.

1 Pursuant to Local Rule 5-4.3.4, Bobby Ghajar hereby attests that the following
2 signatory concurs in the filing's content and has authorized the filing.
3

4 November 17, 2014

By: /s/ Olivier A. Taillieu
Olivier A. Taillieu
The Taillieu Law Firm LLP
Attorneys for Plaintiff and Counter-
Defendant Oculu, LLC

9
10 **IT IS SO ORDERED.**

11 Dated: November 17, 2014

JEAN ROSENBLUTH
Honorable Jean P. Rosenbluth
United States Magistrate Judge

EXHIBIT A

I, _____, declare as follows:

My current employer is _____.

My current address is _____.

My present occupation is _____.

I have received a copy of the Protective Order in this action, Oculu LLC v. Oculus VR, Inc., United States Dist. Court, C.D. Cal. No. 8:14-sacv-196-DOC (JPRx).

I have been retained by _____.

I have carefully read and understand the provisions of this Protective Order Re Confidentiality, and I promise that I will comply with all of its provisions. I will use information designated as “Confidential,” and “Confidential – Outside Counsel Only” only for the purposes of this litigation, and not for any other purposes. I will return all “Confidential,” and “Confidential – Outside Counsel Only” information, and all documents that I prepare that may incorporate such information, to counsel for the Party who disclosed or furnished the information to me promptly upon the request of counsel for both Parties or, if applicable, upon the request of counsel by whom I was retained, upon conclusion of this litigation, or upon order of the court.

I submit to the jurisdiction of this court for the purposes of enforcement against me of the terms and conditions of this Protective Order and the terms of this declaration.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

_____, 2014

Signature

Printed Name